CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8) Applicant(s): Yamada	Docket No. YKI-0058

Application No.	Filing Date	Examiner	Group Art Unit
09/679,097	10/04/2000	L. Jorgensen	2675

Invention: **COLOR DISPLAY DEVICE**

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TRANSMITTAL OF APPEAL BRIEF (Large Entity)	Docket No. YKI-0058

In Re Application Of: **Yamada**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/769,097	10/04/2000	L. Jorgensen	23413	2675	9653

Invention: **COLOR DISPLAY DEVICE**

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YKI-0058
09/679,097

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant:	TSUTOMU YAMADA	)
		) Group Art Unit: 2675
Serial No.:	09/679,097	)
		)
Filed:	October 4, 2000	) Examiner: L. Jorgensen
		)
For:	COLOR DISPLAY DEVICE	)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is Sanyo Electric Co., Ltd.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences know to Appellant, Appellant's legal representatives, or assignee that will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF THE CLAIMS

Claims 1-18 are pending in the application. Claims 1-18 stand finally rejected. Claims 1-18, as they currently stand, are set forth in the Claims Appendix. Appellant hereby appeals the final rejection of Claims 1-18.

IV. STATUS OF THE AMENDMENTS

No amendments have been filed subsequent to the final rejection dated February 2, 2005. All prior amendments have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1 is directed to a color display device in which display pixels for indicating different colors are provided in plural numbers for each color and arranged in a matrix. The color display device comprises, corresponding to each display pixel: a self-emissive element for emitting light of a predetermined color; a driving thin film transistor (TFT) (40) having a first end in electrical communication with the self-emissive element for supplying a drive current to the self-emissive element and a second end in electrical communication with a power source with a constant voltage; and a switching TFT (30) having a first end in electrical communication with a data line and a second end in electrical communication with a gate of the driving TFT (40), the switching TFT (30) controls whether a data signal from the data line is supplied to the gate of the driving TFT (40). The size of the driving TFT (40) in a display pixel for one color is altered from that in a display pixel for another color. (Claim 1 and Figure 1).

Independent Claim 13 is directed to a color display device in which display pixels for

indicating different colors are provided in plural numbers for each color and arranged in a matrix. The color display device comprises, corresponding to each display pixel: a self-emissive element for emitting light of a predetermined color; a driving thin film transistor (TFT) (40) having a first end in electrical communication with the self-emissive element for supplying a drive current to the self-emissive element; and a switching TFT (30) having a first end in electrical communication with a data line and a second end in electrical communication with a gate of the driving TFT (40), the switching TFT (30) controls whether a data signal from the data line is supplied to the gate of the driving TFT (40). The size of the driving TFT (40) in a display pixel for one color is set for every color in accordance with: an emission efficiency of the emissive element disposed at the display pixel; a chromaticity of each color emitted by respective emissive element; and the chromaticity of target display white of the display device. (Claim 13 and Figure 1).

These arrangements allow a voltage from the power source to be altered for each color, eliminating the need to arrange power source lines in a complex manner within the display region of the EL display device. (Page 12, lines 9-12). Further, circuit configuration is prevented from becoming complex by eliminating the need to alter a drain signal supplied to a switching TFT 30 according to each color. (Page 12, lines 12-14).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 2, and 10-12 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 5,684,365 to Tang et al. (hereinafter "Tang") in view of U.S. Patent No. 4,810,060 to Ukai (hereinafter "Ukai").

Claims 3-9 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Ukai in view of Tang, and further in view of U.S. Patent No. 6,072,272 to Rumbaugh (hereinafter "Rumbaugh").

Claims 13-18 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Ukai and Tang, and further in view of Rumbaugh and further in view of U.S. Patent No. 6,121,726 to Codama et al. (hereinafter "Codama").

VII. ARGUMENT

Claims 1, 2, and 10-12 are Non-Obvious over Tang in view of Ukai.

a. Lack of *Prima-facie* Case of Obviousness

Appellant respectfully submits that the Examiner has failed to make a *prima facie* case of obviousness for at least the reason that at least one claimed element is not taught or suggested by Tang, either alone or in combination with Ukai.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 1, 2, and 10-12 include, *inter alia*, the following element: "size of said driving TFT in a display pixel for one color is altered from that in a display pixel for another color" (Emphasis added).

Tang discloses a flat panel display comprising thin-film-transistor-electroluminescent (TFT-EL) pixels. (Abstract). The device comprises two TFTs, a storage capacitor and a light emitting organic EL pad arranged on a substrate. (Col. 4, lines 15-17). As correctly noted by the Examiner, Tang does not teach the size of the driving TFT in a display pixel for one color is altered from that in a display pixel for another color. Rather in making the rejection, the Examiner relied upon Ukai to cure this deficiency stating that "Ukai teaches that the W/L ratio of a power TFT in a display pixel for one color is altered from that in a display pixel for another color. Ukai, col. 3, lines 21-50." (Final Office Action dated February 2, 2005, page 3).

The Examiner further stated:

> It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the varying W/L ratio for each color as taught by Ukai with the color display device as taught by Tang to produce a display image of good

> contrast regardless of the color being displayed. Each thin film transistor has a structure specific to each color to provide substantially the same light transmission-voltage characteristic for each color in the pixel. [cite omitted].

(Final Office Action dated February 2, 2005, page 3.)

Appellant respectfully submits that Ukai is directed to an active color liquid crystal display element, wherein a thin film transistor connected to each display electrode is controlled by switching. (Abstract). Absent in Ukai is any teaching of a driving TFT. Since there is no driving TFT disclosed in Ukai, it appears as thought the Examiner is attempting to apply a teaching relating to a switching TFT to a driving TFT. However, the Examiner has not provided any support that the teachings of a switching TFT can be applied to a driving TFT. In other words, it appears that the Examiner has taken Official Notice that the teachings of switching TFTs are applicable to driving TFTs.

MPEP § 2144.03 defines when it is proper to use Official Notice. In particular, the MPEP states "Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known." The MPEP also states "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." However, the Examiner has not provided a prior art reference showing that the teachings of switching TFTs can be applied to driving TFTs or unquestionably demonstrated that this fact is well-known.

Further, Appellant respectfully asserts that switching TFTs and driving TFTs have different functions and as such, cannot be substituted for one another. Switching TFTs are used for controlling the timing for supplying a current to an EL element, while driving TFTs are used for supplying current to the EL element. Additionally, switching TFTs and driving TFTs are substantially different in their design. A switching TFT, only has two operating modes, on and off, where current flows from the drain to the source when a voltage is applied to the gate and no current flows in the absence of a voltage at the gate. On the other hand, a driving TFT allows for modulation of the current flowing from the drain to the source based upon the voltage applied at the gate. The driving TFT is capable of controlling not only the presence of current flow from drain to source, but also the magnitude of the current flow from drain to source.

As briefly mentioned above, Ukai only discloses a switching TFT. There is no driving TFT in Ukai because there is no electroluminescence element in Ukai to drive. Instead, Ukai only has a switching TFT, which operates as follows:

> Voltage is applied across a selected one of each of the gate and source buses 18 and 19, by which is conducted only one of the thin film transistor 16 that is supplied with the voltage, and charges are stored in the display electrode 15 connected to the drain of the conducted thin film transistor 16. Thus, voltage is applied across the liquid crystal 14 only between the charged display electrode 15 and the common electrode 17, by which only that portion of the liquid crystal 14 is made transparent or untransparent to light, thus providing a selective display.

(Column 1, lines 43-55)

Thus, the switching TFT operates so as to provide a voltage to the liquid crystal. There is nothing in Ukai that teaches or suggests a driving TFT that supplies current.

Further, Ukai teaches that the drain current I_D is proportional to a ratio W/L and since the drain voltage V_D is proportional to the drain current, the ratios W/L can change the voltage applied to the liquid crystal. (Column 3, lines 21-45). Namely, in Ukai, by changing the size of the switching TFT, the current amount is changed to thereby change the voltage to be applied to the liquid crystal. As explained above, the switching TFT operates to provide a voltage to the liquid crystal and depending on the size of the switching TFT, a different voltage will be applied.

In contrast to Ukai, Appellant claims a driving TFT that has a first end in electrical communication with the self-emissive element for supplying a drive current to the self-emissive element and a second end in electrical communication with a power source with a constant voltage. The size of the driving TFT in a display pixel for one color is altered from that in a display pixel for another color. Thus, as claimed, the source-drain voltage is basically fixed and does not change when the size of the driving TFT is altered. Instead, the size of the driving TFT changes the drive current supplied to the self-emissive element. Accordingly, the structures and operation of the structures are completely different and one skilled in the art would not substitute the switching TFT of Ukai for the driving TFT of Tang as suggested by the Examiner.

Accordingly, the Examiner has not established a *prima facie* case of obviousness, since even if combined, the references fail to teach or suggest at least that the size of the driving TFT in a display pixel for one color is altered from that in a display pixel for another color. As such, independent Claim 1 is not obvious over Tang in view of Ukai and is therefore allowable.

Moreover, for at least the reason that Claims 2, and 10-12 depend from and further limit independent Claim 1, they too are not obvious and are allowable.

b. No Motivation to Combine Tang with Ukai.

While Appellant maintains that the combined references would fail to teach or suggest at least one claimed element, Appellant further submits that there is no motivation to combine Tang with Ukai in the first place.

An Examiner cannot establish obviousness by locating references that describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would have impelled one skilled in the art to do what the patent applicant has done. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. Int. 1993). The references, when viewed by themselves and not in retrospect, must suggest the invention. *In Re Skoll*, 187 U.S.P.Q. 481 (C.C.P.A. 1975).

In making the final rejection, the Examiner cites to the general proposition that much of the teaching that apply to the TFT for a liquid crystal display also apply to an electroluminescent display. (Final Office Action dated February 2, 2005, page 10). However, that general proposition does not address Appellant's specific argument that there is no motivation to combine the driving TFT of Tang with the structure of Ukai, since the functions between the switching TFT of Ukai and the driving TFT of Tang are different.

As discussed above, while the switching TFT of Ukai has similar functions to that of Tang's switching TFT, Ukai is completely silent as to any teaching or suggestion of a driving TFT or any teaching or suggestion that the teachings relating to the switching TFT can be applied to a driving TFT. Tang has both a switching TFT and a driving TFT. Driving TFTs provide a current to an EL element and switching TFTs provide a voltage to a LC element (in Ukai) or a gate of a driving TFT (in Tang); thus, functions of switching TFT and a driving TFT are quite different from each other and it is not possible to readily adapt the structures of the switching TFT of Ukai to the driving TFT of Tang. Accordingly, there is no motivation to combine Ukai and Tang. As such, Appellant respectfully submits that Claims 1, 2, and 10-12 are patentable over Ukai and Tang.

Claims 3-9 are Non-Obvious over Tang in view of Ukai and Rumbaugh.

Appellant respectfully directs the Board's attention to the above discussion with regard to the primary references of Tang and Ukai. Appellant respectfully submits that there is 1) no motivation to combine Tang and Ukai; and even if combined, Tang and Ukai fail to teach or suggest at least that the size of the driving TFT in a display pixel for one color is altered from that in a display pixel for another color.

In making the rejection, the Examiner relied upon Rumbaugh primarily for teaching that the different light transmission characteristics for each color is the emissive efficiency of each color self-emissive element. (Final Office Action dated February 2, 2005, page 5.) However, Rumbaugh fails to cure the deficiencies of Tang and Ukai. More particularly, even if combined, the combined references would at least fail to teach or suggest at least that the size of the driving TFT in a display pixel for one color is altered from that in a display pixel for another color. Accordingly, the Examiner has not established a *prima facie* case of obviousness, since even if combined, the references fail to teach or suggest at least that the size of the driving TFT in a display pixel for one color is altered from that in a display pixel for another color. As such, independent Claim 1 is not obvious over Tang in view of Ukai and Rumbaugh and is therefore allowable. Moreover, as dependent claims from an allowable independent claim, Claims 3-9 are by definition, also allowable.

Claims 13-18 are Non-Obvious over Tang in view of Ukai, Rumbaugh, and Codama.

Appellant directs the Board to the above discussion with regard to each of Tang, Ukai, and Rumbaugh.

Appellant submits that the Examiner has used an improper standard in arriving at the rejection of the above claims. In applying Section 103, the U.S. Court of Appeals for the Federal Circuit has consistently held that one must consider both the invention and the prior art "as a whole," not from improper hindsight gained from consideration of the claimed invention. *See Interconnect Planning Corp. v. Feil,* 227 U.S.P.Q. 543, 551 (Fed. Cir. 1985) and cases cited therein. According to the *Interconnect* court

> "[n]ot only must the claimed invention as a whole be evaluated, but so also must the references as a whole, so that their teachings are applied in the context of their

> significance to a technician at the time - a technician without our knowledge of the solution." *Id.*

In this case, the Examiner relied upon Codama for teaching that the chromaticity of each color emitted by respective emissive element and the chromaticity of target display white of the display device.

The Examiner further stated that:

> It would have been obvious to one of ordinary skill in the art at the time the invention to use chromaticity as taught by Codama with the color adjusted display of Ukai, Tang, and Rumbaugh to produce a display with pixels adjust both for the emission efficiency of each emissive element and for the chromaticity of each color emitted by each emissive element and the chromaticity of target display white of the display device.

(Final Office Action dated February 2, 2005, page 8.)

Appellant respectfully submits that none of the references, either alone or in combination, teach setting the size of the driving TFT. As explained in great detail above, Ukai at best teaches setting the size of a switching TFT. As such various teachings relating to chromaticity are irrelevant without any suggestion of applying these teaching to the sizing of the driving TFT. It appears that the Examiner is not considering the teachings of the claims and each reference as a whole.

In contrast to the references, Appellant claims that the size of the driving TFT in a display pixel for one color is set for every color in accordance with: 1) the emission efficiency of the emissive element disposed at the display pixel; 2) the chromaticity of each color emitted by respective emissive element; and 3) the chromaticity of target display white of the display device. (Claims 13-15.) Further, Appellant teaches that size of the driving TFT in a display pixel for red, for green, and for blue is set on the basis of: 1) the emission efficiency of the emissive element of each display pixel; 2) a luminance ratio of red to green to blue in accordance with each chromaticity of red, green, and blue emitted by respective emissive element of the display pixel; and 3) with the chromaticity of target display white of the display device.

None of the above cited references, either alone or in combination, teach or suggest the claimed combination of the basis for setting the size of the driving TFT. It is improper for the Examiner to use Appellant's specification as a road map to reject the claims, when none of references apply to sizing the driving TFT. Accordingly, the Examiner has not established a *prima facie* case of obviousness. As such, independent Claims 13 and 16 are not obvious over

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Tang in view of Ukai, Rumbaugh, and Codama and are therefore allowable. Moreover, as dependent claims from an allowable independent claim, Claims 14-15 and 17-18 are by definition, also allowable.

In summary, Claims 1-18 are non-obvious over the art of record. For the reasons cited above, Appellant respectfully submits that all of the claims are allowable and the application is in condition for allowance. Appellant respectfully requests reversal of the outstanding rejections and allowance of this application.

In the event the Examiner has any queries regarding the submitted arguments, the undersigned respectfully requests the courtesy of a telephone conference to discuss any matters in need of attention.

If there are any additional charges with respect to this Appeal Brief, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By 
Joel T. Charlton
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VIII. CLAIMS APPENDIX

1. (Previously Presented) A color display device in which display pixels for indicating different colors are provided in plural numbers for each color and arranged in a matrix, said color display device comprising, corresponding to each display pixel:

a self-emissive element for emitting light of a predetermined color;

a driving thin film transistor (TFT) having a first end in electrical communication with said self-emissive element for supplying a drive current to said self-emissive element and a second end in electrical communication with a power source with a constant voltage; and

a switching TFT having a first end in electrical communication with a data line and a second end in electrical communication with a gate of said driving TFT, said switching TFT controls whether a data signal from said data line is supplied to said gate of said driving TFT; wherein

size of said driving TFT in a display pixel for one color is altered from that in a display pixel for another color.

2. (Previously Presented) The color display device as claimed in claim 1, wherein

said switching TFT controls turning on and off of said driving TFT and a current therethrough.

3. (Original) The color display device as claimed in claim 1, wherein

said size of said driving TFT is determined according to an emissive efficiency of a self-emissive element connected to the driving TFT.

4. (Original) The color display device as claimed in claim 3, wherein

said size of a driving TFT connected to a self-emissive element having a high emissive efficiency is set smaller compared to said size of a driving TFT connected to a self-emissive element having a low emissive efficiency.

5. (Original) The color display device as claimed in claim 3, wherein

said size of a driving TFT connected to a self-emissive element having a highest emissive efficiency is set smaller compared to said size of a driving TFT connected to a self-emissive element having any other level of emissive efficiency.

6. (Original) The color display device as claimed in claim 5, wherein color of the self-emissive element having the highest emissive efficiency is green.

7. (Original) The color display device as claimed in claim 3, wherein

said size of a driving TFT connected to a self-emissive element having a lowest emissive efficiency is set larger compared to said size of a driving TFT connected to a self-emissive element having any other level of emissive efficiency.

8. (Original) The color display device as claimed in claim 7, wherein

color of the self-emissive element having the lowest emissive efficiency is either red or blue.

9. (Original) The color display device as claimed in claim 3, wherein

said size of said driving TFT is made successively larger as the emissive efficiency decreases.

10. (Original) The color display device as claimed in claim 1, wherein

said self-emissive element is an electroluminescence element.

11. (Original) The color display device as claimed in claim 1, wherein

said size of said driving TFT is altered by changing a gate width according to emitting color while a gate length is fixed.

12. (Original) The color display device as claimed in claim 1, wherein

said size of said driving TFT is altered by changing a gate length according to emitting color while a gate width is fixed.

13. (Previously Presented) A color display device in which a display pixels for indicating different colors are provided in plural numbers for each color and arranged in a matrix, said color display device comprising, corresponding to each display pixel:

a self-emissive element for emitting light of a predetermined color;

a driving thin film transistor (TFT) having a first end in communication with said self-emissive element for supplying a drive current to said self-emissive element; and

a switching TFT having a first end in communication with a data line and a second end in

communication with a gate of said driving TFT, said switching TFT controls whether a data signal from said data line is supplied to said gate of said driving TFT; wherein

size of said driving TFT in a display pixel for one color is set for every color in accordance with:

the emission efficiency of said emissive element disposed at said display pixel;

the chromaticity of each color emitted by respective emissive element; and

the chromaticity of target display white of the display device.

14. (Original) A color display device according to claim 13 wherein the size of said driving TFT of the display pixel of any one color, among the display pixel of various colors, is different from the size of said driving TFT of the display pixel of another color.

15. (Original) A color display device according to claim 13 wherein said emissive element is an organic electroluminescence element comprising the emissive layer using an organic compound between first electrode and second electrode.

16. (Previously Presented) A color display device in which display pixels for red, for green, and for blue, are provided in plural numbers for each color and arranged in a matrix, said color display device comprising, corresponding to each display pixel:

a self-emissive element for emitting light of a predetermined color;

a driving thin film transistor (TFT) having a first end in communication with said self-emissive element for supplying a drive current to said self-emissive element; and

a switching TFT having a first end in communication with a data line and a second end in communication with a gate of said driving TFT, said switching TFT controls whether a data signal from said data line is supplied to said gate of said driving TFT; wherein

size of said driving TFT in a display pixel for red, for green, and for blue is set on the basis of:

the emission efficiency of the emissive element of each display pixel; and

a luminance ratio of red to green to blue in accordance with each chromaticity of red, green, and blue emitted by respective emissive element of the display pixel, and with the chromaticity of target display white of the display device.

17. (Original) A color display device according to claim 16 wherein the emissive area of the display pixel of any one color among said display pixel for red, for green, and for blue is different in size from the emissive area of the display pixel of another color.

18. (Original) A color display device according to claim 16 wherein said emissive element is an organic electroluminescence element comprising the emissive layer using an organic compound between first electrode and second electrode.

IX. EVIDENCE APPENDIX

There is no evidence submitted pursuant to 37 C.F.R. §1.130, 37 C.F.R. §1.131, or 37 C.F.R. §1.132 or any other evidence entered by the Examiner and relied upon by the Appellant in this appeal, known to the Appellant, Appellant's legal representatives, or assignee.

X. RELATED PROCEEDING APPENDIX

There are no other related appeals or interferences known to Appellant, Appellant's legal representatives, or assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.